



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB2955

Introduced 2/4/2014, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

755 ILCS 5/2-6.2
755 ILCS 5/2-6.6

Amends the Probate Act of 1975. Provides that provisions barring certain persons from receiving any property, benefit, or other interest by reason of the death of an elderly person or person with a disability apply also to persons who have been found liable for financial exploitation, abuse, or neglect of an elderly person or a person with a disability by a preponderance of evidence in a civil proceeding. Provides that a civil action against a person for financial exploitation, abuse, or neglect of an elderly person or a person with a disability may be brought after the death of the victim or during the lifetime of the victim if the victim is adjudicated disabled. Provides that the court may, in its discretion, consider such facts and circumstances as it deems appropriate to allow the person found liable for financial exploitation, abuse, or neglect of an elderly person or a person with a disability to receive a reduction in interest or benefit rather than no interest or benefit.

LRB098 17134 HEP 52221 b

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Probate Act of 1975 is amended by changing
5 Sections 2-6.2 and 2-6.6 as follows:

6 (755 ILCS 5/2-6.2)

7 Sec. 2-6.2. Financial exploitation, abuse, or neglect of an
8 elderly person or a person with a disability.

9 (a) In this Section:

10 "Abuse" means any offense described in Section 12-21 or
11 subsection (b) of Section 12-4.4a of the Criminal Code of 1961
12 or the Criminal Code of 2012.

13 "Financial exploitation" means any offense described in
14 Section 16-1.3 or 17-56 of the Criminal Code of 1961 or the
15 Criminal Code of 2012.

16 "Neglect" means any offense described in Section 12-19 or
17 subsection (a) of Section 12-4.4a of the Criminal Code of 1961
18 or the Criminal Code of 2012.

19 (b) Persons convicted of financial exploitation, abuse, or
20 neglect of an elderly person or a person with a disability or
21 persons who have been found liable for financial exploitation,
22 abuse, or neglect of an elderly person or a person with a
23 disability by a preponderance of evidence in a civil proceeding

1 shall not receive any property, benefit, or other interest by
2 reason of the death of that elderly person or person with a
3 disability, whether as heir, legatee, beneficiary, survivor,
4 appointee, claimant under Section 18-1.1, or in any other
5 capacity and whether the property, benefit, or other interest
6 passes pursuant to any form of title registration, testamentary
7 or nontestamentary instrument, intestacy, renunciation, or any
8 other circumstance. Except as provided in subsection (f) of
9 this Section, the ~~The~~ property, benefit, or other interest
10 shall pass as if the person convicted of the financial
11 exploitation, abuse, or neglect or person found liable for
12 financial exploitation, abuse, or neglect in a civil proceeding
13 died before the decedent, provided that with respect to joint
14 tenancy property the interest possessed prior to the death by
15 the person convicted of the financial exploitation, abuse, or
16 neglect shall not be diminished by the application of this
17 Section. Notwithstanding the foregoing, a person convicted of
18 financial exploitation, abuse, or neglect of an elderly person
19 or a person with a disability or a person who has been found
20 liable for financial exploitation, abuse, or neglect of an
21 elderly person or a person with a disability by a preponderance
22 of evidence in a civil proceeding shall be entitled to receive
23 property, a benefit, or an interest in any capacity and under
24 any circumstances described in this subsection (b) if it is
25 demonstrated by clear and convincing evidence that the victim
26 of that offense knew of the conviction or finding of liability

1 and subsequent to the conviction or finding of liability
2 expressed or ratified his or her intent to transfer the
3 property, benefit, or interest to the person convicted of
4 financial exploitation, abuse, or neglect of an elderly person
5 or a person with a disability or the person found liable for
6 financial exploitation, abuse, or neglect of an elderly person
7 or a person with a disability by a preponderance of evidence in
8 a civil proceeding in any manner contemplated by this
9 subsection (b).

10 (c) (1) The holder of any property subject to the provisions
11 of this Section shall not be liable for distributing or
12 releasing the property to the person convicted of financial
13 exploitation, abuse, or neglect of an elderly person or a
14 person with a disability or the person who has been found
15 liable for financial exploitation, abuse, or neglect of an
16 elderly person or a person with a disability by a preponderance
17 of evidence in a civil proceeding if the distribution or
18 release occurs prior to the conviction or finding of liability.

19 (2) If the holder is a financial institution, trust
20 company, trustee, or similar entity or person, the holder shall
21 not be liable for any distribution or release of the property,
22 benefit, or other interest to the person convicted of a
23 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
24 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
25 of 1961 or the Criminal Code of 2012 or the person who has been
26 found liable for financial exploitation, abuse, or neglect of

1 an elderly person or a person with a disability by a
2 preponderance of evidence in a civil proceeding unless the
3 holder knowingly distributes or releases the property,
4 benefit, or other interest to the person so convicted or found
5 liable after first having received actual written notice of the
6 conviction in sufficient time to act upon the notice.

7 (d) If the holder of any property subject to the provisions
8 of this Section knows that a potential beneficiary has been
9 convicted of financial exploitation, abuse, or neglect of an
10 elderly person or a person with a disability or has been found
11 liable for financial exploitation, abuse, or neglect of an
12 elderly person or a person with a disability by a preponderance
13 of evidence in a civil proceeding within the scope of this
14 Section, the holder shall fully cooperate with law enforcement
15 authorities and judicial officers in connection with any
16 investigation of the financial exploitation, abuse, or
17 neglect. If the holder is a person or entity that is subject to
18 regulation by a regulatory agency pursuant to the laws of this
19 or any other state or pursuant to the laws of the United
20 States, including but not limited to the business of a
21 financial institution, corporate fiduciary, or insurance
22 company, then such person or entity shall not be deemed to be
23 in violation of this Section to the extent that privacy laws
24 and regulations applicable to such person or entity prevent it
25 from voluntarily providing law enforcement authorities or
26 judicial officers with information.

1 (e) A civil action against a person for financial
2 exploitation, abuse, or neglect of an elderly person or a
3 person with a disability may be brought, pursuant to this
4 Section, after the death of the victim or during the lifetime
5 of the victim if the victim is adjudicated disabled.

6 (f) The court may, in its discretion, consider such facts
7 and circumstances as it deems appropriate to allow the person
8 found liable for financial exploitation, abuse, or neglect of
9 an elderly person or a person with a disability to receive a
10 reduction in interest or benefit rather than no interest or
11 benefit as stated under subsection (b) of this Section.

12 (Source: P.A. 96-1551, Article 1, Section 995, eff. 7-1-11;
13 96-1551, Article 10, Section 10-155, eff. 7-1-11; 97-1109, eff.
14 1-1-13; 97-1150, eff. 1-25-13.)

15 (755 ILCS 5/2-6.6)

16 Sec. 2-6.6. Person convicted of or found liable for certain
17 offenses against the elderly or a person with a disability
18 ~~disabled~~.

19 (a) A person who is convicted of a violation of Section
20 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of
21 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
22 Code of 2012 or a person who has been found liable for
23 financial exploitation, abuse, or neglect of an elderly person
24 or a person with a disability by a preponderance of evidence in
25 a civil proceeding may not receive any property, benefit, or

1 other interest by reason of the death of the victim of that
2 offense, whether as heir, legatee, beneficiary, joint tenant,
3 tenant by the entirety, survivor, appointee, or in any other
4 capacity and whether the property, benefit, or other interest
5 passes pursuant to any form of title registration, testamentary
6 or nontestamentary instrument, intestacy, renunciation, or any
7 other circumstance. Except as provided in subsection (f) of
8 this Section, the ~~The~~ property, benefit, or other interest
9 shall pass as if the person convicted of a violation of Section
10 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of
11 Section 12-4.4a, of the Criminal Code of 1961 or the Criminal
12 Code of 2012 or the person found liable for financial
13 exploitation, abuse, or neglect of an elderly person or a
14 person with a disability by a preponderance of evidence in a
15 civil proceeding died before the decedent; provided that with
16 respect to joint tenancy property or property held in tenancy
17 by the entirety, the interest possessed prior to the death by
18 the person convicted or found liable may not be diminished by
19 the application of this Section. Notwithstanding the
20 foregoing, a person convicted of a violation of Section 12-19,
21 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section
22 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of
23 2012 or a person who has been found liable for financial
24 exploitation, abuse, or neglect of an elderly person or a
25 person with a disability by a preponderance of evidence in a
26 civil proceeding shall be entitled to receive property, a

1 benefit, or an interest in any capacity and under any
2 circumstances described in this Section if it is demonstrated
3 by clear and convincing evidence that the victim of that
4 offense knew of the conviction or finding of liability and
5 subsequent to the conviction or finding of liability expressed
6 or ratified his or her intent to transfer the property,
7 benefit, or interest to the person convicted of a violation of
8 Section 12-19, 12-21, 16-1.3, or 17-56, or subsection (a) or
9 (b) of Section 12-4.4a, of the Criminal Code of 1961 or the
10 Criminal Code of 2012 or the person found liable for financial
11 exploitation, abuse, or neglect of an elderly person or a
12 person with a disability by a preponderance of evidence in a
13 civil proceeding in any manner contemplated by this Section.

14 (b) The holder of any property subject to the provisions of
15 this Section is not liable for distributing or releasing the
16 property to the person convicted of violating Section 12-19,
17 12-21, 16-1.3, or 17-56, or subsection (a) or (b) of Section
18 12-4.4a, of the Criminal Code of 1961 or the Criminal Code of
19 2012 or to the person found liable for financial exploitation,
20 abuse, or neglect of an elderly person or a person with a
21 disability by a preponderance of evidence in a civil
22 proceeding.

23 (c) If the holder is a financial institution, trust
24 company, trustee, or similar entity or person, the holder shall
25 not be liable for any distribution or release of the property,
26 benefit, or other interest to the person convicted of a

1 violation of Section 12-19, 12-21, 16-1.3, or 17-56, or
2 subsection (a) or (b) of Section 12-4.4a, of the Criminal Code
3 of 1961 or the Criminal Code of 2012 or person found liable for
4 financial exploitation, abuse, or neglect of an elderly person
5 or a person with a disability by a preponderance of evidence in
6 a civil proceeding unless the holder knowingly distributes or
7 releases the property, benefit, or other interest to the person
8 so convicted or found liable after first having received actual
9 written notice of the conviction or finding of liability in
10 sufficient time to act upon the notice.

11 (d) The Department of State Police shall have access to
12 State of Illinois databases containing information that may
13 help in the identification or location of persons convicted of
14 or found liable for the offenses enumerated in this Section.
15 Interagency agreements shall be implemented, consistent with
16 security and procedures established by the State agency and
17 consistent with the laws governing the confidentiality of the
18 information in the databases. Information shall be used only
19 for administration of this Section.

20 (e) A civil action against a person for financial
21 exploitation, abuse, or neglect of an elderly person or a
22 person with a disability may be brought, pursuant to this
23 Section, after the death of the victim or during the lifetime
24 of the victim if the victim is adjudicated disabled.

25 (f) The court may, in its discretion, consider such facts
26 and circumstances as it deems appropriate to allow the person

1 convicted or found liable for financial exploitation, abuse, or
2 neglect of an elderly person or a person with a disability to
3 receive a reduction in interest or benefit rather than no
4 interest or benefit as stated under subsection (a) of this
5 Section.

6 (Source: P.A. 96-1551, Article 1, Section 955, eff. 7-1-11;
7 96-1551, Article 10, Section 10-155, eff. 7-1-11; 97-1109, eff.
8 1-1-13; 97-1150, eff. 1-25-13.)